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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

MICHAEL DOTSON, individually and)	Case No.
on behalf of all others similarly)	
situated,	)	<u>CLASS ACTION</u>
)	
Plaintiff,	)	COMPLAINT FOR VIOLATIONS
	)	OF:
vs.)	
	)	1. NEGLIGENT VIOLATIONS OF
	)	THE TELEPHONE CONSUMER
	)	PROTECTION ACT [47 U.S.C.
NFS INSURANCE AGENCY, LLC	)	§227 ET SEQ.]
d/b/a SENIORS UNITED	)	2. WILLFUL VIOLATIONS OF THE
INSURANCE; DOES 1 through 10,	)	TELEPHONE CONSUMER
inclusive,	)	PROTECTION ACT [47 U.S.C.
	)	§227 ET SEQ.]
)	
Defendant(s).	)	<u>DEMAND FOR JURY TRIAL</u>

Plaintiff, MICHAEL DOTSON ("Plaintiff"), on behalf of himself and all others similarly situated, alleges the following upon information and belief based upon personal knowledge:

NATURE OF THE CASE

1. Plaintiff brings this action for himself and others similarly situated seeking damages and any other available legal or equitable remedies resulting

1 from the illegal actions of NFS INSURANCE AGENCY, LLC d/b/a SENIORS
 2 UNITED INSURANCE (“Defendant”), in negligently, knowingly, and/or
 3 willfully contacting Plaintiff on Plaintiff’s cellular telephone in violation of the
 4 Telephone Consumer Protection Act, 47. U.S.C. § 227 *et seq.* (“TCPA”), thereby
 5 invading Plaintiff’s privacy.

6 **JURISDICTION & VENUE**

7 2. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff,
 8 a resident of California, seeks relief on behalf of a Class, which will result in at
 9 least one class member belonging to a different state than that of Defendant, a
 10 California company. Plaintiff also seeks up to \$1,500.00 in damages for each call
 11 in violation of the TCPA, which, when aggregated among a proposed class in the
 12 thousands, exceeds the \$5,000,000.00 threshold for federal court jurisdiction.
 13 Therefore, both diversity jurisdiction and the damages threshold under the Class
 14 Action Fairness Act of 2005 (“CAFA”) are present, and this Court has
 15 jurisdiction.

16 3. Venue is proper in the United States District Court for the Central
 17 District of California pursuant to 28 U.S.C. § 1391(b)(2) because Defendant does
 18 business within the state of California and Plaintiff resides within this District.

19 **PARTIES**

20 4. Plaintiff, MICHAEL DOTSON (“Plaintiff”), is a natural person
 21 residing in Reseda, California and is a “person” as defined by 47 U.S.C. § 153
 22 (39).

23 5. Defendant, NFS INSURANCE AGENCY, LLC d/b/a SENIORS
 24 UNITED INSURANCE (“Defendant”), is in payday loan business, and is a
 25 “person” as defined by 47 U.S.C. § 153 (39).

26 6. The above named Defendant, and its subsidiaries and agents, are
 27 collectively referred to as “Defendants.” The true names and capacities of the
 28 Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are

1 currently unknown to Plaintiff, who therefore sues such Defendants by fictitious
2 names. Each of the Defendants designated herein as a DOE is legally responsible
3 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend
4 the Complaint to reflect the true names and capacities of the DOE Defendants
5 when such identities become known.

6 7. Plaintiff is informed and believes that at all relevant times, each and
7 every Defendant was acting as an agent and/or employee of each of the other
8 Defendants and was acting within the course and scope of said agency and/or
9 employment with the full knowledge and consent of each of the other Defendants.
10 Plaintiff is informed and believes that each of the acts and/or omissions
11 complained of herein was made known to, and ratified by, each of the other
12 Defendants.

13 **FACTUAL ALLEGATIONS**

14 8. Beginning in or around February of 2018, Defendant contacted
15 Plaintiff on his cellular telephone ending in -9844, in an effort to sell or solicit its
16 services.

17 9. Defendant called Plaintiff on his cellular telephone from phone
18 numbers confirmed to belong to Defendant, including without limitation (800)
19 620-5250 and (407) 526-3321.

20 10. Plaintiff asked Defendant on numerous occasions to cease calling
21 him.

22 11. However, Plaintiff's repeated efforts to get Defendant to cease its
23 automated barrage of solicitations were to no avail, and Defendant continues to
24 harass and annoy him with calls.

25 12. Defendant used an "automatic telephone dialing system", as defined
26 by 47 U.S.C. § 227(a)(1) to place its calls to Plaintiff seeking to sell or solicit its
27 business services.

28 13. Defendant's calls constituted calls that were not for emergency

1 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

2 14. Defendant's calls were placed to telephone number assigned to a
3 cellular telephone service for which Plaintiff incurs a charge for incoming calls
4 pursuant to 47 U.S.C. § 227(b)(1).

5 15. Plaintiff is not a customer of Defendant's services and has never
6 provided any personal information, including his cellular telephone number, to
7 Defendant for any purpose whatsoever.

8 16. In addition, on at least one occasion, Plaintiff answered the telephone
9 and told Defendant to stop calling him. Accordingly, Defendant never received
10 Plaintiff's "prior express consent" to receive calls using an automatic telephone
11 dialing system or an artificial or prerecorded voice on his cellular telephone
12 pursuant to 47 U.S.C. § 227(b)(1)(A).

13 17. Plaintiff alleges upon information and belief, including without
14 limitation his experiences as recounted herein, especially his experience of being
15 called after expressly requesting that Defendant cease all calls to him, that
16 Defendant lacks reasonable policies and procedures to avoid the violations of the
17 Telephone Consumer Protection act herein described.

18 **CLASS ALLEGATIONS**

19 18. Plaintiff brings this action individually and on behalf of all others
20 similarly situated, as a member the two proposed classes (hereafter, jointly, "The
21 Classes"). The class concerning the ATDS claim for no prior express consent
22 (hereafter "The ATDS Class") is defined as follows:

23 All persons within the United States who received any
24 solicitation/telemarketing telephone calls from
25 Defendant to said person's cellular telephone made
26 through the use of any automatic telephone dialing
27 system or an artificial or prerecorded voice and such
28 person had not previously consented to receiving such
calls within the four years prior to the filing of this
Complaint

1
2 19. The class concerning the ATDS claim for revocation of consent, to
3 the extent prior consent existed (hereafter “The ATDS Revocation Class”) is
4 defined as follows:

5 All persons within the United States who received any
6 solicitation/telemarketing telephone calls from
7 Defendant to said person’s cellular telephone made
8 through the use of any automatic telephone dialing
9 system or an artificial or prerecorded voice and such
10 person had revoked any prior express consent to receive
11 such calls prior to the calls within the four years prior to
12 the filing of this Complaint.

13 20. Plaintiff represents, and is a member of, The ATDS Class, consisting
14 of all persons within the United States who received any solicitation telephone
15 calls from Defendant to said person’s cellular telephone made through the use of
16 any automatic telephone dialing system or an artificial or prerecorded voice and
17 such person had not previously not provided their cellular telephone number to
18 Defendant within the four years prior to the filing of this Complaint.

19 21. Plaintiff represents, and is a member of, The ATDS Revocation
20 Class, consisting of all persons within the United States who received any
21 solicitation/telemarketing telephone calls from Defendant to said person’s cellular
22 telephone made through the use of any automatic telephone dialing system or an
23 artificial or prerecorded voice and such person had revoked any prior express
24 consent to receive such calls prior to the calls within the four years prior to the
25 filing of this Complaint.

26 22. Defendant, its employees and agents are excluded from The Classes.
27 Plaintiff does not know the number of members in The Classes, but believes the
28 Classes members number in the thousands, if not more. Thus, this matter should
be certified as a Class Action to assist in the expeditious litigation of the matter.

1 23. The Classes are so numerous that the individual joinder of all of its
2 members is impractical. While the exact number and identities of The Classes
3 members are unknown to Plaintiff at this time and can only be ascertained
4 through appropriate discovery, Plaintiff is informed and believes and thereon
5 alleges that The Classes includes thousands of members. Plaintiff alleges that
6 The Classes members may be ascertained by the records maintained by
7 Defendant.

8 24. Plaintiff and members of The ATDS Class and The ATDS
9 Revocation Class were harmed by the acts of Defendant in at least the following
10 ways: Defendant illegally contacted Plaintiff and ATDS Class members via their
11 cellular telephones thereby causing Plaintiff and ATDS Class and ATDS
12 Revocation Class members to incur certain charges or reduced telephone time for
13 which Plaintiff and ATDS Class and ATDS Revocation Class members had
14 previously paid by having to retrieve or administer messages left by Defendant
15 during those illegal calls, and invading the privacy of said Plaintiff and ATDS
16 Class and ATDS Revocation Class members.

17 25. Common questions of fact and law exist as to all members of The
18 ATDS Class which predominate over any questions affecting only individual
19 members of The ATDS Class. These common legal and factual questions, which
20 do not vary between ATDS Class members, and which may be determined
21 without reference to the individual circumstances of any ATDS Class members,
22 include, but are not limited to, the following:

- 23 a. Whether, within the four years prior to the filing of this
24 Complaint, Defendant made any telemarketing/solicitation call
25 (other than a call made for emergency purposes or made with
26 the prior express consent of the called party) to a ATDS Class
27 member using any automatic telephone dialing system or any
28 artificial or prerecorded voice to any telephone number

1 assigned to a cellular telephone service;

2 b. Whether Plaintiff and the ATDS Class members were
3 damaged thereby, and the extent of damages for such
4 violation; and

5 c. Whether Defendant should be enjoined from engaging in such
6 conduct in the future.

7 26. As a person that received numerous telemarketing/solicitation calls
8 from Defendant using an automatic telephone dialing system or an artificial or
9 prerecorded voice, without Plaintiff's prior express consent, Plaintiff is asserting
10 claims that are typical of The ATDS Class.

11 27. Common questions of fact and law exist as to all members of The
12 ATDS Revocation Class which predominate over any questions affecting only
13 individual members of The ATDS Revocation Class. These common legal and
14 factual questions, which do not vary between ATDS Revocation Class members,
15 and which may be determined without reference to the individual circumstances
16 of any ATDS Revocation Class members, include, but are not limited to, the
17 following:

18 a. Whether, within the four years prior to the filing of this
19 Complaint, Defendant made any telemarketing/solicitation call
20 (other than a call made for emergency purposes or made with
21 the prior express consent of the called party) to an ATDS
22 Revocation Class member, who had revoked any prior express
23 consent to be called using an ATDS, using any automatic
24 telephone dialing system or any artificial or prerecorded voice
25 to any telephone number assigned to a cellular telephone
26 service;

27 b. Whether Plaintiff and the ATDS Revocation Class members
28 were damaged thereby, and the extent of damages for such

1 violation; and

2 c. Whether Defendant should be enjoined from engaging in such
3 conduct in the future.

4 28. As a person that received numerous telemarketing/solicitation calls
5 from Defendant using an automatic telephone dialing system or an artificial or
6 prerecorded voice, after Plaintiff had revoked any prior express consent, Plaintiff
7 is asserting claims that are typical of The ATDS Revocation Class.

8 29. Plaintiff will fairly and adequately protect the interests of the
9 members of The Classes. Plaintiff has retained attorneys experienced in the
10 prosecution of class actions.

11 30. A class action is superior to other available methods of fair and
12 efficient adjudication of this controversy, since individual litigation of the claims
13 of all Classes members is impracticable. Even if every Classes member could
14 afford individual litigation, the court system could not. It would be unduly
15 burdensome to the courts in which individual litigation of numerous issues would
16 proceed. Individualized litigation would also present the potential for varying,
17 inconsistent, or contradictory judgments and would magnify the delay and
18 expense to all parties and to the court system resulting from multiple trials of the
19 same complex factual issues. By contrast, the conduct of this action as a class
20 action presents fewer management difficulties, conserves the resources of the
21 parties and of the court system, and protects the rights of each Classes member.

22 31. The prosecution of separate actions by individual Classes members
23 would create a risk of adjudications with respect to them that would, as a practical
24 matter, be dispositive of the interests of the other Classes members not parties to
25 such adjudications or that would substantially impair or impede the ability of such
26 non-party Class members to protect their interests.

27 32. Defendant has acted or refused to act in respects generally applicable
28 to The Classes, thereby making appropriate final and injunctive relief with regard

1 to the members of the Classes as a whole.

2 **FIRST CAUSE OF ACTION**

3 **Negligent Violations of the Telephone Consumer Protection Act**

4 **47 U.S.C. §227 et seq.**

5 33. Plaintiff repeats and incorporates by reference into this cause of
6 action the allegations set forth above at Paragraphs 1-32.

7 34. The foregoing acts and omissions of Defendant constitute numerous
8 and multiple negligent violations of the TCPA, including but not limited to each
9 and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

10 35. As a result of Defendant's negligent violations of *47 U.S.C. § 227 et*
11 *seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in
12 statutory damages, for each and every violation, pursuant to *47 U.S.C. §*
13 *227(b)(3)(B)*.

14 36. Plaintiff and the Class members are also entitled to and seek
15 injunctive relief prohibiting such conduct in the future.

16 **SECOND CAUSE OF ACTION**

17 **Knowing and/or Willful Violations of the Telephone Consumer Protection Act**

18 **47 U.S.C. §227 et seq.**

19 37. Plaintiff repeats and incorporates by reference into this cause of
20 action the allegations set forth above at Paragraphs 1-32.

21 38. The foregoing acts and omissions of Defendant constitute numerous
22 and multiple knowing and/or willful violations of the TCPA, including but not
23 limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et*
24 *seq.*

25 39. As a result of Defendant's knowing and/or willful violations of *47*
26 *U.S.C. § 227 et seq.*, Plaintiff and the Class members are entitled an award of
27 \$1,500.00 in statutory damages, for each and every violation, pursuant to *47*
28 *U.S.C. § 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

1 40. Plaintiff and the Class members are also entitled to and seek
2 injunctive relief prohibiting such conduct in the future.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff requests judgment against Defendant for the following:

5 **FIRST CAUSE OF ACTION**

6 **Negligent Violations of the Telephone Consumer Protection Act**

7 **47 U.S.C. §227 et seq.**

- 8 • As a result of Defendant's negligent violations of *47 U.S.C.*
9 *§227(b)(1)*, Plaintiff and the Class members are entitled to and
10 request \$500 in statutory damages, for each and every violation,
11 pursuant to *47 U.S.C. 227(b)(3)(B)*;
12 • An order for injunctive relief prohibiting such conduct by
13 Defendants in the future; and
14 • Any and all other relief that the Court deems just and proper.

15 **SECOND CAUSE OF ACTION**

16 **Knowing and/or Willful Violations of the Telephone Consumer Protection Act**

17 **47 U.S.C. §227 et seq.**

- 18 • As a result of Defendant's willful and/or knowing violations of *47*
19 *U.S.C. §227(b)(1)*, Plaintiff and the Class members are entitled to
20 and request treble damages, as provided by statute, up to \$1,500, for
21 each and every violation, pursuant to *47 U.S.C. §227(b)(3)(B)* and
22 *47 U.S.C. §227(b)(3)(C)*;
23 • An order for injunctive relief prohibiting such conduct by
24 Defendants in the future; and
25 • Any and all other relief that the Court deems just and proper.

26 ///

27 ///

28 ///

JURY DEMAND

41. Pursuant to his rights under the Seventh Amendment to the United States Constitution, Plaintiff demands a jury on all issues so triable.

Respectfully Submitted this 28th day of September, 2018.

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s/ Todd M. Friedman

Todd M. Friedman

Law Offices of Todd M. Friedman

Attorney for Plaintiff